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*Members and Hawaii Class Members*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DANIEL GONZALEZ and JEFFREY HUGHES,  
on behalf of themselves and others similarly  
situated,

Plaintiffs,

v.

DIAMOND RESORTS INTERNATIONAL  
MARKETING, INC., and WEST MAUI  
RESORTS PARTNERS, L.P.

Defendants.

Case No. 2:18-cv-00979-APG-NJK

STIPULATION AND ORDER TO  
APPROVE NOTICE AND OPT-OUT  
FORM TO PUTATIVE HAWAII  
CLASS MEMBERS

1 Plaintiffs and Defendants HEREBY STIPULATE AND AGREE, by and through their  
2 respective counsel, as to the following:

3 1. By Order entered on May 1, 2020, the Court granted Plaintiffs' Motion to Certify  
4 the Hawaii Class pursuant to Fed. R. Civ. P. 23. *Doc. 159, Order*. The Court ordered that the  
5 Parties confer regarding the contents of the notice to putative class members, and if an agreement  
6 could be reached, to submit the proposed notice to the Court within 30 days of the Order for the  
7 Court's review and approval. *Id.*, p. 15.

8 2. After conferring, the Parties reached an agreement as to contents of the proposed  
9 notice and opt-out form.

10 3. Attached as **Exhibit 1** are the proposed Notice and Opt-out Form for the Court's  
11 review and approval.

12 4. Based on the foregoing, the Parties respectfully request that the Court enter an order  
13 approving the proposed Notice and Opt-out Form.

14 IT IS SO STIPULATED this 1<sup>st</sup> day of June, 2020.  
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*Attorneys for Defendants*

## ORDER

Based on the Parties' stipulation, and for good cause shown, the Court approves the proposed Notice and Opt-out Form submitted by the Parties.

IT IS SO ORDERED:

  
\_\_\_\_\_  
ANDREW P. GORDON  
United States District Judge

Dated: June 8, 2020.

# **EXHIBIT 1 – PROPOSED NOTICE AND OPT-OUT FORM**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

**DANIEL GONZALEZ, et al. v. DIAMOND RESORTS INTERNATIONAL  
MARKETING, INC., and WEST MAUI RESORTS PARTNERS, L.P.**

Case No. 2:18-cv-00979-APG-NJK

**IMPORTANT NOTIFICATION TO POTENTIAL CLASS MEMBERS**

**Please read carefully. Your legal rights may be affected**

TO: ALL INDIVIDUALS WHO, AT ANY TIME SINCE MAY 29, 2012, WERE EMPLOYED AS A VACATION COUNSELOR BY WEST MAUI RESORTS PARTNERS, L.P.

RE: LAWSUIT ASSERTING VIOLATIONS OF THE HAWAII WAGE AND HOUR LAW AGAINST WEST MAUI RESORTS PARTNERS, L.P.

<b>Do Nothing</b>	No action is required of you to remain in the class action asserting violations of the Hawaii Wage and Hour Law. If a judgment or settlement is reached in favor of the class on such claims, you may receive compensation.
<b>Exclude Yourself</b>	If you wish to be excluded from the class, you must send a request to be excluded to Plaintiff's counsel, whose contact information is included in this notice. If you exclude yourself from the class, you will not be bound by any judgment or settlement in this case, meaning you will not receive compensation if the class recovers.

**1. INTRODUCTION**

The purpose of this Notice is to: 1) inform you of the existence of a class action lawsuit filed against West Maui Resorts Partners, L.P. ("WMRP"); 2) advise you of how your rights may be affected by this lawsuit; and 3) instruct you on the procedure for participating in this lawsuit or excluding yourself from this lawsuit.

You have been sent this Notice because WMRP's employment records indicate that you are an eligible class member because you were employed as a Vacation Counselor at some point

between May 29, 2012 to the present.

No final judgment has been reached in this case, and receipt of this Notice does not guarantee that you have a valid claim or entitled to a recovery in this lawsuit.

## **2. DESCRIPTION OF THE LAWSUIT**

On May 29, 2018, Daniel Gonzalez (“Plaintiff”) brought this lawsuit against WMRP on behalf of himself and all other past and present Vacation Counselors who worked for WMRP at any time from May 29, 2012, to the present. Plaintiff alleges that WMRP did not properly pay overtime to Vacation Counselors for all hours worked, including the miscalculation of overtime pay at a rate based on one and one-half times the minimum wage in Hawaii, instead of properly calculating overtime pay at a rate of one and one-half times Vacation Counselors’ total compensation, which included commissions and bonuses. Based on the foregoing, Plaintiff alleges that Vacation Counselors were regularly and routinely underpaid overtime compensation.

Plaintiff alleges that WMRP’s failure to properly pay overtime to Vacation Counselors violated the Hawaii Wage and Hour Law. Plaintiff has sued to recover unpaid overtime compensation for himself and all other current and former Vacation Counselors employed by WMRP at any time from May 29, 2012, to the present. In addition, Plaintiff seeks to recover an additional equal amount as liquidated damages (*i.e.* double damages) for himself and Vacation Counselors, as well as an award of pre-judgment and post-judgment interest, attorney’s fees and costs.

WMRP denies Plaintiff’s allegations and contends that it has properly paid former and current Vacation Counselors.

## **3. HOW TO EXCLUDE YOURSELF FROM THIS LAWSUIT**

Plaintiff has made claims asserting violations under the Hawaii Wage and Hour Law by

WMRP. To remain a class member and continue to assert claims under the Hawaii Wage and Hour Law, no action is required of you. However, if you wish to exclude yourself from the class, you can do so by mailing the enclosed opt out request to:

**WMRP CLASS ACTION OPT OUT**

c/o Martin D. Holmes, Dickinson Wright, PLLC

424 Church Street, Suite 800, Nashville, TN 37219

Or by electronic mail or telefax to:

Pamela L. Pardee ([ppardee@dickinsonwright.com](mailto:ppardee@dickinsonwright.com)) or  
Missy Council ([mcouncil@dickinsonwright.com](mailto:mcouncil@dickinsonwright.com))  
844-670-6009 (telefax)

stating that you wish to be excluded. Please make sure that any request to be excluded is signed and that the case number is included. The request must be received by no later than [90 days from the mailing of notice]. You do not need to provide any reason for your decision to exclude yourself.

**4. QUESTIONS REGARDING THIS NOTICE**

If you have any questions regarding this Notice, you can contact Class Counsel, identified below:

Martin D. Holmes ([mdholmes@dickinsonwright.com](mailto:mdholmes@dickinsonwright.com))  
Peter F. Klett ([pklett@dickinsonwright.com](mailto:pklett@dickinsonwright.com))  
Dickinson Wright PLLC  
424 Church Street, Suite 800  
Nashville, Tennessee 37219  
615-242-0434

Michael N. Feder ([mfeder@dickinsonwright.com](mailto:mfeder@dickinsonwright.com))  
Dickinson Wright PLLC  
3883 Howard Hughes Parkway, Suite 800  
Las Vegas, Nevada 89169  
702-550-4440

Do **NOT** use your [@diamonresorts.com](mailto:@diamonresorts.com) email address to correspond with Class Counsel, but rather use your personal email account.

Class Counsel have taken this case on a contingency fee basis, which means that if there is no recovery, there will be no attorney's fee. If there is a recovery, the attorneys for the Class will receive the greater of either: 1) 35% of any total settlement obtained or money judgment entered in favor of all members of the Class (40% if the case is appealed); or 2) separately awarded attorney's fees as approved by the Court.

If you do not exclude yourself from this lawsuit, you will be represented by Class Counsel, who are:

Martin D. Holmes (mdholmes@dickinsonwright.com)  
Peter F. Klett (pklett@dickinsonwright.com)  
Dickinson Wright PLLC  
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702-550-4440

Trevor W. Howell (trevor@howelllawfirmllc.com)  
P.O. Box 158511  
Nashville, Tennessee, 32716

By remaining in this lawsuit, you designate the named Plaintiff (the Class Representative) as your agent to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiff's counsel concerning attorney's fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the Representative Plaintiff or Class Representative will be binding on you if remain in this lawsuit.



**6. LEGAL EFFECT OF EXCLUDING YOURSELF FROM THIS LAWSUIT**

If you exclude yourself from this lawsuit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable to the class. If you choose to exclude yourself from this lawsuit, you are free to retain your own attorney and file your own lawsuit. In the event that you exclude yourself from this lawsuit or file your own lawsuit, any claim that you may have for unpaid overtime may become partially or completely time-barred.

**7. IF YOU ENTERED INTO AN ARBITRATION AGREEMENT**

If you entered into an arbitration agreement covering your employment with WMRP, the arbitration agreement may bar your participation in the later stages of this class action and you may have to, instead, submit your claim individually to the American Arbitration Association.

**8. IF YOU ENTERED INTO A SETTLEMENT OR RELEASE**

If you entered into a settlement or release and released the claims Plaintiff asserts in this lawsuit, you may be barred from participation in the later stages of this collective action.

**9. NO RETALIATION PERMITTED**

Hawaii law prohibits an employer from firing you or taking any other adverse employment action against you because you have exercised your legal right to participate in this lawsuit or because you have otherwise exercised your rights under the Hawaii Wage and Hour Law. This means that WMRP, its owners, officers, directors and/or any managers are forbidden from treating you differently because you participate in this lawsuit.

**THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFF'S CLAIMS OR OF DEFENDANT'S DEFENSES.**

**PLEASE DO NOT CONTACT THE DISTRICT COURT JUDGE, CLERK, OR STAFF REGARDING THIS NOTICE.**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**DANIEL GONZALEZ, et al. v. DIAMOND RESORTS INTERNATIONAL  
MARKETING, INC., and WEST MAUI RESORTS PARTNERS, L.P.**

Case No. 2:18-cv-00979-APG-NJK

**OPT OUT REQUEST**

I have decided to opt out of participation in the above mentioned class action.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

Last four digits of SSN: \_\_\_\_\_